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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,256	05/11/2001	Anthony Robert Buckley	3-1-2	7897

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EXAMINER

TRAN, TUAN A

ART UNIT PAPER NUMBER

2682

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/854,256

Applicant(s)

BUCKLEY ET AL.

Examiner

Tuan A. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-13 and 15-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-13 and 15-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Current amended claim 8 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: See Office Action (Requirement for Restriction/Election) mailed on 01/13/2005.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 8 withdrawn from consideration as being directed to a non-elected invention (See Applicant's Response filed on 02/14/2005). See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3 and 15-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In this case, a second switch is located in the headset and configured to initiate and/or accepting a call and rout it on the second audio path only when the headset is connected to the handset in accordance with the Specification, figure 2 and page 5, but not with limitation "regardless of whether the headset is connected to the handset" as specified in claims. Correction is required. For

the purpose of examination, the Examiner will consider these claims corresponding to figure 2 of the Specification.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-7 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gong (6,301,491) in view of Kim et al. (6,397,087).

Regarding claims 1 and 3-7, Gong discloses a mobile station for a mobile telecommunications system (See fig. 1A) comprising: a handset; a headset terminal for connection of the headset to the handset; the handset including a transceiver 120 for transmitting an outgoing call and receiving an incoming call, a processor 100 coupled to the transceiver 120 for providing audio signals on a first audio path to a first audio transducer in the headset and on a second audio path to a second audio transducer in the headset; a first user operable switch 170 disposed in the handset configured such that the operation thereof has the effect both of initiating, accepting and terminating a call, and of routing audio signals to the audio path corresponding to one of the handset and the headset on which the switch is disposed regardless of whether the headset is connected to the handset; and a switch controller in the processor responsive to the

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operation of the first switch for operating respective further switches in the first audio path and in the second audio path (See fig. 1A, 2 and col. 3 lines 11-44). However, Gong does not mention the headset with a second switch, wherein the second switch is configured to initiate and/or accept, terminate a call, and rout it on the second audio path and wherein the operation of the second switch following the operation of the first switch is effective to select the other of the selected one of the first and second audio paths, when the headset is connected to the handset. Kim teaches a headset with a second switch (On/Off switch), wherein the second switch is configured to initiate and/or accept, terminate a call, and rout it on the second audio path and wherein the operation of the second switch following the operation of the first switch is effective to select the other of the selected one of the first and second audio paths, when the headset is connected to the handset (See figs. 7-8 and col. 5 lines 33-49, col. 7 lines 2-6). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the headset as disclosed by Kim for the advantage of allowing the user to conduct a call in private-mode.

Claims 15-19 are rejected for the same reasons as set forth in claims 1 and 3-7, as method.

Regarding claim 2, Gong & Kim disclose as cited in claim 1. Gong and Kim further disclose the transducer means in the handset and the headset each comprises a microphone and a speaker respectively (See Gong fig. 1 and Kim fig. 7). However, they not mention that the handset comprises a loudspeaker. Official Notice has been taken that the handset comprising the loudspeaker is very common in the art. Therefore, it

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would have been obvious to one of ordinary skill in the art at the time the invention was made to use handset having a loudspeaker for the advantage of allowing the user to operate the handset in hands-free mode.

2. Claims 9-13 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gong (6,301,491) in view of Kim et al. (6,397,087) as applied to claim 1 above, and further in view of Bowen et al. (5,224,151).

Regarding claims 20-24, Gong & Kim disclose as cited in claim 15. However, they do not mention that the first switch is operated automatically via detection of use of the handset wherein the step of automatically detecting comprises detecting proximity of the handset to a user's head via capacitance change or infrared sensing or acoustic impedance sensing or tension in a headband. Bowen teaches a handset comprises sensor for detecting proximity of the handset to a user's head via capacitance change or infrared sensing or acoustic impedance sensing to switch the handset between a loudspeaker mode (hand-free mode) and a handset mode (See figs. 1-4 and col. 2 line 10 to col. 3 line 7). Since tension sensor, Official Notice has been taken, is well known in the art as well as the headband of the handset; therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teachings of Bowen in modifying the handset as disclosed by Gong & Kim or the headband by adding to it infrared proximity sensor or capacitance proximity sensor or acoustic impedance proximity sensor or tension sensor for the advantage of

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automatically switching the handset between the hand-free mode (with the headset) and handset mode depending on the location of the handset relative to the user's ear.

Claims 9-13 are rejected for the same reasons as set forth in claim 20-24, as apparatus.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Colonna et al. (6,115,620) ; Cook (6,434,407) ; Barkat (6,038,457)

Response to Arguments

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

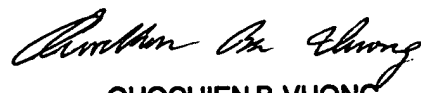
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A. Tran whose telephone number is (571)272-7858. The examiner can normally be reached on Mon-Fri, 10:00AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Quochien Young can be reached on (571)272-7902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tuan Tran

 11/28/05
QUOCHIEN B. VUONG
PRIMARY EXAMINER